

SIMON & PARTNERS LLP

THE FRENCH BUILDING

551 FIFTH AVENUE

NEW YORK, NEW YORK 10176

www.simonlawyers.com

(212) 332-8900

BRADLEY D. SIMON
BRIAN D. WALLER
KENNETH C. MURPHY

JONATHAN STERN

COUNSEL
PAMELA B. STUART
NEAL M. SHER
GENEVIEVE SROUSSI
STEPHENIE L. BROWN
HARRIET TAMEN

FAX: (212) 332-8909

NEW YORK
WASHINGTON, D.C.
PARIS

September 24, 2013

By ECF

Hon. Kimba M. Wood
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *United States v. Rubin et al.*
S1 09 Cr. 1058 (VM)

Dear Judge Wood:

We represent David Rubin in the above-referenced matter. By letter dated September 12, 2013, which was previously sent to Your Honor and to the Honorable Victor Marrero (hereafter the "September 12 Letter"), we sought re-assignment of this matter and an adjournment of Mr. Rubin's sentence, which is currently scheduled for October 18, 2013.

I write this letter to reiterate our request for a of sixty day adjournment of Mr. Rubin's sentencing. As set forth in the September 12 Letter, until the end of May 2013, we reasonably believed that Mr. Rubin's cooperation would continue into 2014 and that he would not be sentenced until late 2014 or early 2015. In fact, Mr. Rubin was meeting with government lawyers as recently as four weeks ago to evaluate his potential utility in another pending matter. Consequently, we need more time to prepare for Mr. Rubin's sentencing in several respects. First, on August 8, 2013, we were provided with a breakdown of the restitution that the Government is seeking against Mr. Rubin, which amounts to approximately \$11.5 million. We do not agree with the Government's calculation and need more time to prepare a detailed analysis for this Court with respect to our position on that issue. Also, we need more time to prepare Mr. Rubin's sentencing memorandum as we have been receiving a large number of letters of support and endeavoring to gather voluminous medical records for the court's consideration. We do not

SIMON & PARTNERS ^{LLP}

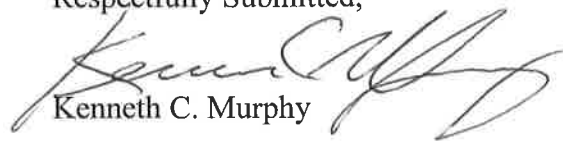
Hon. Kimba M. Wood
September 24, 2013
Page 2

believe that we will have all of that information available by October 18. Further, it has taken us far longer than we anticipated to complete Mr. Rubin's Net Worth Statement and Statement of Monthly Cash Flows over the past two months due to the complex nature of his business interests. As a result, his Pre-Sentence Report ("PSR") is not yet complete (through no fault of the U.S. Probation Office). We expect to have all of this information to the assigned Probation Officer by the end of this week, which will allow the officer to finish the PSR shortly thereafter. All of this makes it exceedingly difficult for us to be effectively prepared for the quickly approaching sentencing date.

We have discussed this request with DOJ attorney Rebecca Meiklejohn who informs us that the Government has no objection to a thirty day adjournment of the sentencing date but that the Government opposes an adjournment beyond thirty days.

Thank you for your time and attention with regard to this matter.

Respectfully Submitted,


Kenneth C. Murphy

cc: Rebecca Meiklejohn (By email)